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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,626	10/16/2001	Peter Melchior	4535/22	7032
26646	7590	06/01/2006	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			MOONEYHAM, JANICE A	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/981,626	<b>Applicant(s)</b> MELCHIOR ET AL.	
	<b>Examiner</b> Janice A. Mooneyham	<b>Art Unit</b> 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
       Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
       Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This is in response to the applicant's communication filed on March 20, 2006, wherein:

Claims 1-23 are currently pending;

No claims have been amended.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Conklin et al. (US 6, 141,653).

Referring to Claims 1 and 17:

Conklin et al. discloses a computerized method and system for facilitating the transaction in goods or services, comprising:

allowing electronic procurement of a purchase order agreement between a seller and a buyer, the purchase order agreement being stored electronically and relating to a transaction in one or more goods or services (col. 5, lines 35-40; col. 7, lines 30-41; col. 13, lines 51-63 iterative bargaining and purchasing over a network which enables buyers and sellers to negotiate prices, terms, and conditions iteratively until an

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agreement is reached; provides a means for storing, archiving and accessing all transactions and documents; col. 14, lines 21-26 maintains internal databases that contain a history of all transactions, Figure 11a-1 In accordance with the terms of our **Purchase Order**, Figure 18 Notification of **Purchase Order** Acceptance);

allowing electronic modification of the purchase order agreement upon agreement by the seller and the buyer to the modification (Figure 1e (244) state **changes**; col. 13, lines 51-55; col. 14, lines 27-30 provides comprehensive iterative bargaining abilities for both buyers and sellers that enable them to negotiate all the terms and conditions of transaction col. 24, lines 1-41 keeps track of each set of **changes** and can display them; col. 24, line 66 thru col. 26, line 18 Iterative multivariate negotiations);

receiving and storing electronic evidence that the seller has performed in connection with fulfilling the seller's obligations as defined by the purchase order agreement (Figure 1g (68) **Deal concluded and archived**; Figure 8 (580, 585); Figures 15a- 23; Figure 30; col. 14, lines 59-62 complete histories of each stage of the negotiation processes are available for tracking and analysis which promotes non-repudiation of negotiated terms); and

electronically evaluating whether the seller has complied with the seller's obligations as defined by the purchase order agreement (Figure 1g (68) **Deal concluded and archived**; Figure 8 (580, 585); Figures 15a- 23; Figure 30; col. 15, lines 7-12 removing non-complaint participants; col. 27, lines 6-10 in a proposed letter of credit, such as that shown in Figure 16, the buyer's bank assumes the full credit risk

and is absolutely obligated to pay the ***seller provided the seller ships goods in a way that conforms to every detail to the terms of the letter of credit***).

Referring to Claim 2:

Conklin et al. discloses a means for allowing electronic modification of the purchase order agreement and a means for allowing electronic negotiation between the parties relating to the modification (Figure 1e (244) state changes; col. 13, lines 51-55; col. 13, line 66 thru col. 14, line 26; col. 14, lines 27-30 provides comprehensive iterative bargaining abilities for both buyers and sellers that enable them to ***negotiate all the terms and conditions*** of transaction col. 24, lines 1-41 keeps track of each set of ***changes*** and can display them; col. 24, line 66 thru col. 26, line 18 Iterative multivariate negotiations)

Referring to Claim 3:

Conklin et al. discloses a means for allowing a communication between a plurality of sellers and buyers (col. 17, lines 14-38)

Referring to Claims 4 and 18:

Conklin et al. discloses a computerized method and system for facilitating transactions in goods or services, the method comprising:

allowing electronic procurement of a purchase order agreement between a seller and a buyer, the purchase order agreement being stored electronically and relating to a transaction in one or more goods or services (col. 5, lines 35-40; col. 7, lines 30-41; col. 13, lines 51-63 iterative bargaining and purchasing over a network which enables buyers and sellers to negotiate prices, terms, and conditions iteratively until an

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agreement is reached; provides a means for storing, archiving and accessing all transactions and documents; col. 14, lines 21-26 maintains internal databases that contain a history of all transactions, Figure 11a-1 In accordance with the terms of our Purchase Order; Figure 18 Notification of Purchase Order Acceptance);

allowing electronic modification of the purchase order agreement upon agreement by the seller and the buyer to the modification (Figure 1e (244) state changes; col. 13, lines 51-55; col. 14, lines 27-30 provides comprehensive iterative bargaining abilities for both buyers and sellers that enable them to negotiate all the terms and conditions of transaction col. 24, lines 1-41 keeps track of each set of changes and can display them; col. 24, line 66 thru col. 26, line 18 Iterative multivariate negotiations);

receiving and storing electronic evidence that the seller has performed in connection with fulfilling the seller's obligations as defined by the purchase order agreement (Figure 1g (68) Deal concluded and archived; Figure 8 (580, 585); Figures 15a- 23; Figure 30; col. 14, lines 59-62 complete histories of each state of the negotiation processes are available for tracking and analysis which promotes non-repudiation of negotiated terms);

electronically evaluating whether the seller has complied with the seller's obligations as defined by the purchase order agreement (Figure 1g (68) Deal concluded and archived; Figure 8 (580, 585); Figures 15a- 23; Figure 30; col. 15, lines 7-12 removing non-complaint participants; col. 27, lines 6-10 in a proposed letter of credit, such as that shown in Figure 16, the buyer's bank assumes the full credit risk and is

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absolutely obligated to pay the seller provided the seller ships goods in a way that conforms to every detail to the terms of the letter of credit);

electronically providing a payment instruction if the seller has been evaluated to have complied with the seller's obligation as defined by the purchase order agreement (Figure 17, Figure 30; col. 26, line 65 thru col. 27, line 31); and

receiving and storing electronic evidence that the buyer has made one or more payments in connection with fulfilling buyer's obligations as defined by the purchase order agreement as modified by any modifications (Figure 30, col. 26, lines 65 thru col. 27, documentary collection payment methods, purchase order payment methods, procurement cards and similar methods can be used and negotiated using this invention; col. 6, lines 20-21).

Referring to Claims 5-6:

Conklin et al. discloses a means for allowing negotiation between the parties and means for allowing modifications (col. 14, lines 27-31 provides comprehensive iterative bargaining abilities; col. 17, lines 14-38; col. 24, lines 1-22 keeps track of each set of changes).

Referring to Claims 7-9:

Conklin et al. discloses a means for storing electronic records (col. 14, lines 21-26).

Referring to Claim 10:

Conklin et al. discloses a means for allowing determining the different rights of the parties (col. 25, lines 12-20 deciding entity; col. 32, lines 25-61).

Referring to Claims 11-12:

Conklin et al. discloses a means for evaluating payment criteria, means for evaluating credit exposure, and means for providing payment guarantee (col. 4, line 51 thru col. 7, line 45; col. 25, lines 56-59, col. 26, line 65 thru col. 27, line 31).

Referring to Claim 13:

Conklin discloses a means for determining compliance with obligations (Figure 1g (68) Deal concluded and archived; Figure 8 (580, 585); Figures 15a- 23; Figure 30; col. 15, lines 7-12 removing non-complaint participants; col. 27, lines 6-10 in a proposed letter of credit, such as that shown in Figure 16, the buyer's bank assumes the full credit risk and is absolutely obligated to pay the seller provided the seller ships goods in a way that conforms to every detail to the terms of the letter of credit).

Referring to Claims 14 and 19:

Conklin et al. discloses computerized method and system for facilitating transactions in goods or services, the method comprising:

allowing electronic procurement of a purchase order agreement between a seller and a buyer, the purchase order agreement being stored electronically and relating to a transaction in one or more goods or services (col. 5, lines 35-40; col. 7, lines 30-41; col. 13, lines 51-63 iterative bargaining and purchasing over a network which enables buyers and sellers to negotiate prices, terms, and conditions iteratively until an agreement is reached; provides a means for storing, archiving and accessing all transactions and documents; col. 14, lines 21-26 maintains internal databases that



contain a history of all transactions, Figure 11a-1 In accordance with the terms of our Purchase Order; Figure 18 Notification of Purchase Order Acceptance);

allowing electronic negotiations between the seller and the buyer relating to establishing the purchase order agreement (col. 13, lines 51-55; col. 24, lines 1-17; col. 24, line 66 thru col. 26, line 18 iterative multivariate negotiations).

allowing electronic modification of the purchase order agreement upon agreement by the seller and the buyer to the modification (Figure 1e (244) state changes; col. 13, lines 51-55; col. 14, lines 27-30 provides comprehensive iterative bargaining abilities for both buyers and sellers that enable them to negotiate all the terms and conditions of transaction col. 24, lines 1-41 keeps track of each set of changes and can display them; col. 24, line 66 thru col. 26, line 18 Iterative multivariate negotiations);

receiving and storing electronic evidence that the seller has performed in connection with fulfilling the seller's obligations as defined by the purchase order agreement (Figure 1g (68) Deal concluded and archived; Figure 8 (580, 585); Figures 15a- 23; Figure 30; col. 14, lines 59-62 complete histories of each state of the negotiation processes are available for tracking and analysis which promotes non-repudiation of negotiated terms);

electronically evaluating whether the seller has complied with the seller's obligations as defined by the purchase order agreement (Figure 1g (68) Deal concluded and archived; Figure 8 (580, 585); Figures 15a- 23; Figure 30; col. 15, lines 7-12 removing non-complaint participants; col. 27, lines 6-10 in a proposed letter of credit,

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such as that shown in Figure 16, the buyer's bank assumes the full credit risk and is absolutely obligated to pay the seller provided the seller ships goods in a way that conforms to every detail to the terms of the letter of credit).

Referring to Claims 15, 20, 22-23:

Conklin et al. discloses a computerized method and system for facilitating transactions in goods or services, the method comprising:

allowing electronic procurement of a purchase order agreement between a seller and a buyer, the purchase order agreement being stored electronically and relating to a transaction in one or more goods or services (col. 5, lines 35-40; col. 7, lines 30-41; col. 13, lines 51-63 iterative bargaining and purchasing over a network which enables buyers and sellers to negotiate prices, terms, and conditions iteratively until an agreement is reached; provides a means for storing, archiving and accessing all transactions and documents; col. 14, lines 21-26 maintains internal databases that contain a history of all transactions, Figure 11a-1 In accordance with the terms of our Purchase Order; Figure 18 Notification of Purchase Order Acceptance);

allowing electronic negotiations between the seller and the buyer relating to establishing the purchase order agreement (col. 13, lines 51-55; col. 24, lines 1-17; col. 24, line 66 thru col. 26, line 18);

allowing electronic modification of the purchase order agreement upon agreement by the seller and the buyer to the modification (Figure 1e (244) state changes; col. 13, lines 51-55; col. 14, lines 27-30 provides comprehensive iterative bargaining abilities for both buyers and sellers that enable them to negotiate all the

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terms and conditions of transaction col. 24, lines 1-41 keeps track of each set of changes and can display them; col. 24, line 66 thru col. 26, line 18 Iterative multivariate negotiations);

receiving and storing electronic evidence that the seller has performed in connection with fulfilling the seller's obligations as defined by the purchase order agreement (Figure 1g (68) Deal concluded and archived; Figure 8 (580, 585); Figures 15a- 23; Figure 30; col. 14, lines 59-62 complete histories of each state of the negotiation processes are available for tracking and analysis which promotes non-repudiation of negotiated terms);

electronically evaluating whether the seller has complied with the seller's obligations as defined by the purchase order agreement (Figure 1g (68) Deal concluded and archived; Figure 8 (580, 585); Figures 15a- 23; Figure 30; col. 15, lines 7-12 removing non-complaint participants; col. 27, lines 6-10 in a proposed letter of credit, such as that shown in Figure 16, the buyer's bank assumes the full credit risk and is absolutely obligated to pay the seller provided the seller ships goods in a way that conforms to every detail to the terms of the letter of credit);

electronically providing a payment instruction if the seller has been evaluated to have complied with the seller's obligation as defined by the purchase order agreement (Figure 17, Figure 30; col. 26, line 65 thru co. 27, line 31); and

receiving and storing electronic evidence that the buyer has made on or more payments in connection with fulfilling buyer's obligations as defined by the purchase order agreement as modified by any modifications (Figure 30, col. 26, lines 65 thru col.

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27, documentary collection payment methods, purchase order payment methods, procurement cards and similar methods can be used and negotiated using this invention).

Referring to Claim 21:

Conklin et al. discloses wherein allowing the electronic negotiation comprises:

allowing a first one of the seller and the buyer to communicate to a second one of a seller and a buyer a first proposed purchase order (Figure 3; Figure 9);

allowing the second one of the seller and the buyer to electronically communicate to the first one of the seller and the buyer an action selected from the group of accepting the first proposed purchase order, declining the first proposed purchase order, communicating the second one of the buyer and the seller a second proposed purchase order, the second proposed purchase order being created by the second one of the seller and the buyer by electronically modifying the first proposed purchase order (col. 5, lines 35-40; col. 7, lines 30-41; col. 13, lines 61-63; col. 14, lines 21-26); and

establishing and storing electronically a purchase order agreement in accordance with any purchase order that has been proposed by the first one of the seller and the buyer and accepted by the second one of the seller and the buyer and to establish and store electronically a purchase order agreement in accordance with any purchase order that has been proposed by the second one of the seller and the buyer and accepted by the first one of the seller and the buyer (col. 13, line 66 thru col. 14, line 26).

### ***Response to Arguments***

3. Applicant's arguments filed March 20, 2003 have been fully considered but they are not persuasive.

Applicant argues that Conklin et al. does not disclose the limitation of *receiving and storing electronic evidence that the seller has performed in connection with fulfilling the seller's obligation as defined by the purchase order agreement*. The Examiner respectfully disagrees. Conklin et al discloses the following. (Figure 1g (68) ***Deal concluded and archived***; Figure 8 (570) Orders are held in the pending database until they are closed and archived by the Seller (580), Shipped (585) ***Order is marked as shipped in the database***; Figures 15a- 23; Figure 30; col. 14, lines 59-62 complete histories of each state of the negotiation processes are available for tracking and analysis which promotes non-repudiation of negotiated terms). Also, Conklin et al. discloses the system allows buyers and sellers to use and negotiate payment options and methods that are accepted internationally. ***The system maintains internal databases that contain the history of all transaction in each community***, so that sponsors, buyers and sellers may retrieve appropriate records to document each stage or interaction and negotiation (abstract).

The applicant argues that Conklin et al. does not disclose *electronically evaluating whether the seller has complied with the seller's obligation as defined by the purchase order agreement*. The Examiner respectfully disagrees with this assertion. Conklin et al. discloses (Figure 1g (68) ***Deal concluded and archived***; Figure 8 (580, 585); Figures 15a- 23; Figure 30; col. 15, lines 7-12 removing non-complaint

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participants; col. 27, lines 6-10 in a proposed letter of credit, such as that shown in Figure 16, the buyer's bank assumes the full credit risk and is absolutely obligated to pay the seller ***provided the seller ships goods in a way that conforms to every detail to the terms of the letter of credit***). Figure 1g shows that the Community monitors activity. Both the Buyer and Seller show they have email and browser access (Figure 1g (58) (78)). Also, see col. 31, lines 40-53 wherein it is disclosed that once a buyer has placed an order for sample quantities, the system automatically sends a notification to that effect to the seller, as seen in Figure 23. The seller, having previously agreed to accept sample orders are now obligated to ship the quantity of the items as specified by the buyer.

The Examiner is giving the word "evidence" the broadest reasonable interpretation.


The Merriam Webster Online Dictionary defines the term evidence below:

## Evidence

7 entries found for **evidence**.

To select an entry, click on it.

evidence[2,transitive verb]	▲	Go
circumstantial evidence		
hearsay evidence		
indirect evidence		
self-evidence		
state's evidence	▼	

Main Entry: **<sup>1</sup>ev·i·dence** 

Pronunciation: 'e-v&-d&n(t)s, -v&-"den(t)s

Function: *noun*

**1 a** : an outward sign : **INDICATION** **b** : something that furnishes proof : **TESTIMONY**; *specifically* : something legally submitted to a tribunal to ascertain the truth of a matter

**2** : one who bears witness; *especially* : one who voluntarily

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confesses a crime and testifies for the prosecution against his accomplices

- **in evidence 1** : to be seen : CONSPICUOUS <trim lawns ... are everywhere *in evidence* -- *Amer. Guide Series: N.C.*> **2** : as evidence

Therefore, the Examiner asserts that Conklin et al. discloses an outward sign, order is marked as shipped in the database, that the seller has performed.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

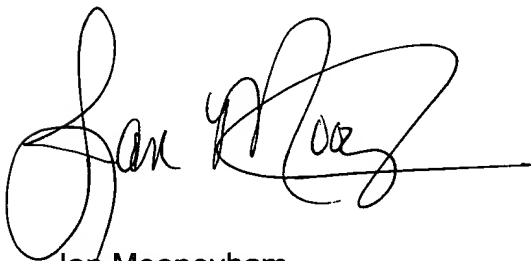


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janice A. Mooneyham whose telephone number is (571) 272-6805. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Jan Mooneyham", with a long horizontal line extending from the end of the signature.

Jan Mooneyham  
Patent Examiner  
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